

EX PARTE PRESENTATION

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: FCC Secretary
From: Douglas A. Klein
Cc: Regina M. Keeney, Karl Kensinger
Re: Ex parte notification pursuant to 47 C.F.R. § 1.1207(b)(3)
Date: September 22, 1998

EX PARTE OR LATE FILED

Date of oral ex parte presentation: September 21, 1998
Proceeding: In the Matter of 1998 Biennial Regulatory Review — Review of International
Common Carrier Regulations, IB Docket No. 98-118
Two copies of this memorandum are being submitted to the Secretary.

On September 21, 1998, the following staff members of the indicated agencies of the Federal Government met to discuss the comments filed by the Federal Bureau of Investigation (FBI) in the above-indicated proceeding:

Federal Bureau of Investigation

Larry Parkinson, General Counsel
Pat Kelley
Alan McDonald
Lynn Pierce
Brian Smith
Charlene Thornton

ORIGINAL

Department of Justice, Office of Intelligence Policy and Review

Lionel Kennedy
Roger Pincus

Department of Justice, Computer Crimes and Intellectual Property Section

Greg Schaffer

Federal Communications Commission, International Bureau

Regina M. Keeney, Chief
Karl Kensinger
Douglas A. Klein

Note: As used below, "FBI" refers to all representatives of the FBI and other components of the Department of Justice that attended the meeting.

The FBI made the following points:

A wholly owned subsidiary of an authorized carrier, or a pro forma assignee or transferee, might raise national-security or law-enforcement concerns that are not raised by the originally authorized carrier. The wholly owned subsidiary or pro forma assignee or transferee might be

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2

in another country or might have employees that pose a risk to national-security or law-enforcement efforts.

The FBI might support allowing some pro forma transactions to be undertaken without an opportunity for prior review, but it would not support some of those listed in the proposed rules, particularly the one involving wholly owned subsidiaries.

The FBI would support a procedure that allowed for prior law-enforcement and national-security review by agencies of the Executive Branch while minimizing or treating separately an opportunity for competitors to make economic arguments that would prevent an application from being afforded streamlined processing.

There are some differences between a blanket Section 214 authorization for international services and one for domestic services, but the differences are not major. The domestic authorization was not viewed by the FBI to be a significant concern at the time it was adopted.

The FBI uses its prior review of Section 214 applications in part to ensure that it is able to go to the carriers for their records and subscriber information when executing its legitimate law-enforcement and national-security responsibilities. A carrier might pose a risk to future investigations if it were to alert the subjects of an investigation.

Although there are greater concerns with facilities-based carriers, some of the same concerns exist for resellers, because those resellers might be the only source of subscriber records.

The FBI also has certain responsibilities related to the protection of telecommunications infrastructure.